GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

Tribal Welfare Department – Appeal Petition filed by Sri Naguluru Leela Vara Prasad, S/o N.Vijay Kumar, SPSR Nellore District, against proceedings No.Rc.C5(M) 657/2016, dated 01.03.2018 of the District Collector, SPSR Nellore District, under Section 7(2) of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) - Regulation of Issue of Community Certificates Act, 1993 (AP Act No.16/1993) – Appeal Petition dismissed – Orders - Issued.

SOCIAL WELFARE (TW.CV.2) DEPARTMENT

G.O.MS.No. 144 Dated: 29-08-2018
Read the following:

1. Proceedings of the District Collector, SPSR Nellore No. Rc.C5(M)657/2016, dated 01.03.2018.
2. The Order of the Hon'ble High Court of AP, Hyderabad in W.P.No.10564/2018, dated 02.04.2018 filed by Sri Nagaluru Leela Vara Prasad.
3. Appeal Petition filed by Sri Naguluru Leela Vara Prasad, S/o Vijaya Kumar, R/o Kaluvoya Village Mandal, SPSR Nellore District, before the Appellate Authority on 07.04.2018.
4. Govt. Memo No.11/1/CV.2/2018, dated 26.04.2018.
5. From the District Collector, SPSR Nellore, Lr.Rc.C5(M)657/2016, dated 14.05.2018.
6. Govt. Memo No.11/1/CV.2/2018, dated 05.06.2018.
7. Documents filed by the appellant through his Counsel, before the Appellate Authority on 23.06.2018.

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ORDER:

In the reference 1st read above, the District Collector, SPSR Nellore has issued orders cancelling ST-Yerukula caste certificate obtained from the then Tahsildar, Chejerla in the year 2008 by Sri Naguluru Leela Vara Prasad, S/o N.Vijay Kumar.

2. In the reference 2nd read above, Sri Naguluru Leela Vara Prasad has filed W.P.No.10564/2018 before the Hon'ble High Court of Andhra Pradesh, Hyderabad, against proceedings, dated 01.03.2018 of the District Collector, SPSR Nellore. The Hon'ble High Court of Andhra Pradesh, Hyderabad while disposing the said WP on 02.04.2018 has reserving liberty to the petitioner to file an appeal before the appellate authority/the Government within four (04) weeks from the date of receipt of the order. It is made clear that in the event the petitioner prefers any such appeal, the Government shall consider and dispose of the same on merits as expeditiously as possible and at any rate not later than four (04) weeks from the date of filing of such appeal, however, without going into the issue of limitation in filing the appeal. Nonetheless, the impugned proceedings of the District Collector insofar it related to the direction to the Tahasildar, Chejerla, to file a complaint in the police station against the petitioner shall remain stayed till the disposal of the appeal by the Government as directed in the order. But, due to several administrative difficulties the matter could not be disposed off within the time limit as directed by the Hon'ble High Court in the said W.P., however, after giving notices from time to time to the Appellant through his Counsel the matter has been examined by the Appellate Authority.

3. Based on the above directions of the Hon'ble High Court of Andhra Pradesh, Hyderabad, Sri Naguluru Leela Vara Prasad, S/o N.Vijay Kumar has filed appeal petition before the Government, against the proceedings of the District Collector, SPSR Nellore. After examining the said Appeal Petition, Government have admitted the Appeal Petition and called for the parawise remarks and connected records from the District Collector, SRSR Nellore in the reference 4th read above.

4. In the reference 5th read above, the District Collector, SPSR Nellore has furnished the Parawise remarks and the connected records on the Appeal Petition filed by Sri Naguluru Leela Vara Prasad, S/o N.Vijay Kumar.

5. The said Appeal Petition has been posted for hearing on 19.05.2018 & 23.06.2018 and the same has been informed to the Appellant and the Counsel for the Appellant in the references 4th & 6th read above, and they were requested to attend for the hearing along with all Documentary Evidences/ Certificates in support of the community claim, failing which, it will be construed that there is no explanation what-so-ever to furnish in the matter and that the case will be decided based on the material available with the Government. Further, the Appellate

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Authority has conducted final hearing on 23.06.2018 and the appellant/ the Counsel for the appellant have attended for the said hearing schedule and argued case & also filed documents in support of his ST-Yerukula community claim.

6. After hearing both the sides and on perusal of the records/ the copies of evidences/academic record/ grounds filed by the Appellant / the parawise remarks submitted by the District Collector, SPSR Nellore and proceedings of the District Collector, SPSR Nellore dated 01.03.2018, the Appellate Authority is observed that :

I. The appellant in his grounds has stated that his ancestors belong to ST-Yerukula community and following rituals, customs, engaged in rearing pigs, weaving baskets, cloth weaving, palmistry, sheep & goat rearing and other traditions, earned their livelihood. Further, before the RDO, SPSR Nellore, his father has stated that he was working as School Assistant, ZPHS, Somasila, great grandparents reared pigs, followed all ST (Yerukula) community customs and traditions and submitted caste certificates issued by the then Tahsildar, academic records voters list of Chejerla village, Aadhar card, Election ID card and etc., The appellant has also stated that Naguluru Chinnabbai Gurunadam Venkataswamy who belong to Erukula Sani Nagar and therefore surnames i.e. Kaviti, Naguluru & Gurunadam categorized under ST community and while issuing the proceedings, the issue Yerukula and Pamulas community has been raised, which are admittedly two distinct and different communities and no affinity between these two communities.

II. The District Level Scrutiny Committee has observed that the Revenue Divisional Officer, Atmakur, who conducted enquiry on the caste status of the individual, had reported that it was found that there is relationship between the people of Chejerla Village having the surname "Naguluru" and the people of Atmakur Town having the surname "Naguluru", that the applications filed through Mee- Seva, by the people of Atmakur Town having the surname "Naguluru" for issue of Yerukula (ST) were got rejected by the Tahsildar, Atmakur, that some people of Atmakur Town and Mandal having "Naguluru" and other surnames, belongs to Pamula caste, have filed a writ petition for issue of Yerukula (ST) caste certificates, that in this regard a detailed enquiry was conducted and that prior to the year 1972, the caste status of the persons having the surnames "Naguluru" was enrolled as Pamula (BC) in School Admission Registers of Kaluvoya and Atmakur Villages, that though Sri Naguluru Leela Varaprasad, S/o. Vijay Kurmar belongs to Pamula (BC) caste, he had obtained Yerukula (ST) caste certificates fraudulently and recommended for cancellation of Yerukula (ST) caste certificates of the above individual. Since, the status of the persons cannot be changed from one caste to another over a period of time, the ancestors of the appellant cannot be treated as Yerukula (ST) as the caste status of the persons having the surnames "Naguluru" was enrolled as Pamula(BC) in School Admission Registers of Kaluvoya and Atmakur Villages prior to the year 1972 and the same was got changed after 1972. Hence, it is proved that the father of the individual i.e., Sri Naguluru Vijava Kumar had obtained Yerukula (ST) community certificates fraudulently, even though their ancestors belonged to Pamula (BC).The Revenue Divisional Officer, Atmakur has confirmed that the individual does not belongs to Yerukula (ST), but belongs to Pamula (BC). The people having surname "Naguluru" were treated as Pamula (BC) prior to the year 1972 and thereafter they have got changed their caste as Yerukula (ST). Both the above officers have stated that the individual is not residing at Chejerla Village. Hence, it is proved beyond doubt that the individual had obtained Yerukula (ST) community certificates fraudulently from the then Tahsildars, Chejerla, even without living in the said area. Based on the findings of the DLSC, the District Collector has cancelled the appellant's caste certificate.

III. Under section 6 of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act 1993 (AP Act No.16/1993) the burden of proof lies on the Appellant only.

IV. The Appellate Authority is observed that during the course of hearing of the case that the appellant submitted his arguments as per his grounds in appeal petition and stated that the lower authority failed to observe that his ancestors belongs to Schedule Tribe Yerukula community following rituals, customs, engaged in rearing pigs, weaving baskets, cloth weaving, palmistry, sheep & goat rearing and other traditions for their livelihood and his father was issued Schedule Tribe

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community certificate by revenue authorities after due verification and he is also Schedule Tribe Yerukula and as such the impugned order shall be cancelled. On verification of the documents and the grounds of appeal and Para wise remarks as well as the other documents and material available on the record it is noticed that except the above contention nothing was placed for appreciation of the case of the appellant and he failed to produce any evidence that he belongs to Yerukula Community. It is further observed as per the record the people having surname "Naguluru" were treated as Pamula (BC) prior to the year 1972 and thereafter their caste was got changed to Yerukula (ST) and availing benefits of STs. It is also observed that the individual is never in the fold of schedule tribe and he was not accepted by the tribal society and failed to adduce evidence that his ancestors and father belongs to Yerukula Community. That as per the Act that the burden of proof lies on the appellant and it is the responsibility of the appellant to produce necessary evidence and documents to claim the same. In the instant case that the appellant except relaying the evidence and documents filed before the lower authority failed to produce any additional material more particularly the evidence of his ancestors caste for re- appreciation of the case on hand. As seen from the record the lower authority passed the order after reasonable appreciating the evidence available on record as per law which deserves no interference. Hence it is apparent that the appeal is devoid of any merits and there is no infirmity either in the findings of the DLSC or the learned District Collector, SPSR Nellore. That taking consideration of the above and the material available on the record that it can be concluded that the lower authority passed the order as per law which does not deserve any interference.

7. In view of the several reasons recorded in the paras supra, the Government, in exercise of the powers conferred under Section 7(2) of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act, 1993 (Act No.16 of 1993), decide that the appeal petition filed by Sri Naguluru Leela Vara Prasad, S/o N.Vijay Kumar, does not deserve any interference. Hence, Proceedings of the District Collector, SPSR Nellore issued vide Rc.C5(M)657/2016, dated 01.03.2018, is hereby upheld and the Appeal Petition filed by Sri Naguluru Leela Vara Prasad, S/o N.Vijay Kumar is hereby dismissed and the Certificate issued by the then Tahsildar, Chejerla is deemed to be cancelled .

8. The District Collector, SPSR Nellore is directed to take necessary consequential action in the matter.

9. The records (containing Rc.C5(M)657/2016, pages: CF: 1 to 277) received from the District Collector, SPSR Nellore through in the reference 5th read above, are returned herewith in original to the District Collector, SPSR Nellore and he is requested to acknowledge the receipt of the same, immediately.

(**BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)**

S.S. RAWAT
PRINCIPAL SECRETARY TO GOVERNMENT

To
The District Collector, SPSR Nellore.
(with original records) (BY RPAD)

Sri Naguluru Leela Vara Prasad,
S/o N. Vijaya Kumar,
R/o Kaluvoya Village & Mandal,
SPSR Nellore District.

M/s. Smt. S.V. Indira,
M. Balakrishna, Advocates,
Flot No.202, Kubara library, Hyderabad.

The District Educational Officer, SPSR Nellore.
Copy to:
The Director, TCR& TI, AP, Amaravathi.
The PS to M(SWE&TWE).
The PS to Principal Secretary(SW&TW).

// FORWARDED:: BY ORDER //

SECTION OFFICER